

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

FALCK NORTHERN CALIFORNIA
CORP.

Employer

and

Case 32-RC-275992

NATIONAL ASSOCIATION OF
GOVERNMENT EMPLOYEES, NAGE EMS
Petitioner

ORDER

The Employer's Request for Review of the Regional Director's Decision and Direction of Election is denied as it raises no substantial issues warranting review.¹ The Employer's request to impound the ballots is denied as moot.

LAUREN McFERRAN,

CHAIRMAN

MARVIN E. KAPLAN,

MEMBER

GWYNNE A. WILCOX,

MEMBER

Dated, Washington, D.C., October 14, 2021.

¹ In denying review, we agree with the Regional Director that the Employer has failed to establish the captains' supervisory status on the basis of assignment, discipline, or effective recommendation of discipline. In so doing, we agree with the Regional Director that the captains do not use independent judgment in issuing discipline for objective infractions. In these instances, the captains issue corrective action by automatically applying the Employer's policies and issuing the appropriate discipline as dictated by the policies (sometimes at the direction of higher managers). In addition, we note that objective infractions constitute straightforward violations of the Employer's policies and do not require additional investigation. Under these circumstances, we find that the captains do not issue discipline regarding these infractions using independent judgment and thus do not exercise supervisory authority under Section 2(11) of the National Labor Relations Act. *G4S Regulated Security Solutions*, 362 NLRB 1072, 1073 (2015), *enfd.* 670 Fed. Appx. 697 (11th Cir. 2016) ("Judgment is not independent if it is dictated or controlled by detailed instructions such as those set forth in company policies or rules . . .") (internal quotation omitted), citing *Oakwood Healthcare, Inc.*, 348 NLRB 686, 693 (2006).

We do not rely on the Regional Director's citation to *Alternate Concepts, Inc.*, 358 NLRB No. 38 (2012), a recess-Board decision. See *NLRB v. Noel Canning*, 573 U.S. 513 (2014).